

UNITED STATES DISTRICT COURT
NEWARK, NEW JERSEY

9/16/08
10:00 AM
Phyllis ATKinson

PLAINTIFF(S)

- vs -

CIVIL NO. 06-5485 (PGS)

North Jersey Developmental

DEMAND FOR TRIAL BY JURY

YES ☒ NO ☐
(CHECK ONE BOX ONLY)

COMPLAINT

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, for employment discrimination. Jurisdiction is specifically conferred on this Court by 42 U.S.C.

Section 2000e-5. Equitable and other relief are also sought under 42 U.S.C. 2000e-5 (g).

2. Plaintiff(s) resides at

317 E 36th

Street Address

Paterson

City

Passaic

County

N.J.

State

973-279-8111 - 973-460-0382

Phone Number

-2-

3. Defendant(s) lives at, or its business is located at 1169 Minisink Rd
Street Address

Totowa Passaic N.J.
County State

973-256-1700
Phone Number

4. Please state the address at which you sought employment Totowa
City

Passaic N.J.
County State

5. State as nearly as possible when the discriminatory acts occurred:

September 04
Day Month Year

5a. If practice is continuing check the appropriate box:

YES NO

6. State as nearly as possible when you filed charges with the N.J. Division on Civil Rights regarding defendant's alleged discriminatory conduct:

9 September 2005
Day Month Year

7. State as nearly as possible when you filed charges with the Equal Employment Opportunity Commission regarding defendants alleged discriminatory conduct: 9
Day

September 2005
Month Year

8. The Equal Employment Opportunity Commission issued the attached Notice-of-Right-to Sue letter which was received by you on

18 August 2005
Day Month Year

(Note: Please attach Notice-of-Right-to Sue letter to this Complaint)

-3-

9. The acts complained by you, in this suit, concern:

A. _____ Failure to employ you.

B. _____ Termination of your employment.

C. _____ Failure to promote you.

D. ☒ Other acts (please specify) Retaliation RACISM Harassment

hostile work environment

See Attached for factual Alleg.

10. Defendant's conduct is discriminatory with respect to which of the following:

A. ☒ Your race

B. _____ Your Color

C. _____ Your Sex

D. _____ Your Religion

E. _____ Your National Origin

11. A Copy of the charge to the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of your claim.

-4-

12. If relief is not granted, plaintiff will be irreparably denied rights secured by the Title VII of the Civil Rights Act of 1964, as amended.

13. Plaintiff(s) has no adequate remedy at law to redress the wrongs described above.

WHEREFORE, Plaintiff(s) prays (check appropriate letter(s) as follows):

A. _____ That all fees, costs or security attendant to this litigation be hereby waived pursuant to affidavit of indigence submitted herewith.

B. _____ That the Court grant such relief as may be appropriate, including injunctive orders, damages and costs.

C. _____ That a trial by jury (is)/is not hereby demanded by the plaintiff.
(Circle one)


SIGNATURE OF PLAINTIFF

EEOC Form 161 (3/98)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Phyllis Atkinson**
317 E. 30th Street
Paterson, NJ 07504

From: **Newark Area Office - 524**
1 Newark Center
21st Floor
Newark, NJ 07102



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

171-2005-01365

Jose G. Rosenberg,
Supervisory Investigator

(973) 645-6021

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.



While reasonable efforts were made to locate you, we were not able to do so.



You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)


- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed **WITHIN 90 DAYS** of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred **more than 2 years (3 years)** before you file suit may not be collectible.

Enclosure(s)

On behalf of the Commission

Corrado Giannini
Director

AUG 18 2006

(Date Mailed)

cc: **STATE OF NEW JERSEY**
Office of the Attorney General
Gerard Hughes, Deputy Attorney General
25 Market Street
PO Box 112
Trenton, NJ 08625

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☐ FEPA☒ EEOC

171-2005-01365

2005 SEP -9 AM 10:57

New Jersey Division On Civil Rights

and EEOC

State or local Agency, if any

Name (Indicate Mr., Ms., Mrs.)

Ms. Phyllis Atkinson

Home Phone No. (Incl Area Code)

(973) 279-8111

Date of Birth

08-17-1956

Street Address

City, State and ZIP Code

317 E. 30th Street, Paterson, NJ 07504

Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)

Name

NORTH JERSEY DEVELOPMENTAL CENTER

No. Employees, Members

500 or More

Phone No. (Include Area Code)

(973) 256-1700

Street Address

City, State and ZIP Code

169 Minisink Road, Totowa, NJ 07511

Name

No. Employees, Members

Phone No. (Include Area Code)

Street Address

City, State and ZIP Code

DISCRIMINATION BASED ON (Check appropriate box(es).)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ NATIONAL ORIGIN☒ RETALIATION ☐ AGE ☐ DISABILITY ☐ OTHER (Specify below.)

DATE(S) DISCRIMINATION TOOK PLACE

Earliest

Latest

02-14-2005

06-01-2005

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I have been employed with the above named employer since August 12, 1980. I was hired as an Assistant Human Services. My official title is Principal Clerk Transcriber. I am currently on sick leave because of the harassment and terms & conditions of employment that I have been subjected to.

Beginning on or around 2004, when Carol Wolke, Assistant Director of Nursing (ADON) became my immediate supervisor until a replacement was hired for my former supervisor, my working environment changed to a hostile environment. I have been harassed and threatened by Ms. Wolke. I have complained about the treatment from Ms. Wolke but no action is taken.

In September 2004, Ms. Wolke reduced my PAR rating but increased the PAR of my White counterpart(s). In December 2004, I was threatened when Ms. Wolke stated, "I'll fix you; I'll get you one way or another". I have been denied time off that had been submitted far in advance. On February 14, 2005, I received a RED A, allegedly because I did not call/show for work. I filed a grievance which was acted upon and the charges were dismissed. I went out of work on sick leave from March 2005, until June 1, 2005. When I returned, all of my job duties/responsibilities were taken from me.

I believe that I have been discriminated against because of my race (Black), and retaliated against in violation of Title VII of the Civil Rights Act of 1964, as amended (Title VII).

I want this charge filed with both the EEOC and the State or local Agency, if any. I will notify them, when necessary, for State and Local Agency Requirements advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Sep 09, 2005

Date

Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE

(month, day, year)

9 September 2005

Signature of Commissioner
James P. Gator

DISCRIMINATION COMPLAINT PROCESSING FORM

NEW JERSEY DEPARTMENT OF PERSONNEL

INSTRUCTIONS: To be filed with the Affirmative Action Officer or authorized designee for the State department / agency where you work or applied for employment.

Read reverse side before completing form.

1. Name: PHYLLIS ATKINSON	2. Social Security Number: 157-54-6131	3. Telephone (work): 4146 973-256-1700
4. Job Title: PRINCIPAL Clerk TRAN	5. Department: NURSING	6. Telephone (Home): 973-279-8111 (CH) 973-460-0382 (C)
7. Home Address:		

8. Exact date(s) of discriminatory action(s): **11/04 12/04 4/04**

9. Basis of Discrimination:

- | | | | |
|--|---|---|--|
| <input checked="" type="checkbox"/> Race | <input type="checkbox"/> Religion | <input type="checkbox"/> Ancestry | <input type="checkbox"/> Reprisal (from having filed a discrimination complaint) |
| <input type="checkbox"/> Color | <input type="checkbox"/> Creed | <input type="checkbox"/> Disability | |
| <input type="checkbox"/> Sex | <input type="checkbox"/> Age | <input type="checkbox"/> Sexual Harassment | |
| <input type="checkbox"/> National Origin | <input type="checkbox"/> Marital status | <input type="checkbox"/> Affectional/Sexual Orientation | |

10. Explain why you feel you have been discriminated against (include the name and title of person(s) you believe discriminated against you)

YOU HAVE THE BURDEN OF PROVING YOUR CHARGE OF DISCRIMINATION:**ARTICLE 2****A. NON-DISCRIMINATION**
see attached11. Appellant's Signature: Date: **3/29/05**☐ ADDITIONAL SHEETS ATTACHED

12. Have you filed a discrimination complaint with the

• N.J. Division on Civil Rights?

☐ YES☒ NO

• U.S. Equal Employment Opportunity Commission?

☐ YES☒ NO

13. Have you filed a grievance on the issues / personnel actions described?

☐ YES☐ NO**DO NOT WRITE BELOW THIS LINE**

AA Officer:

Signature: _____

Date: _____

Received: _____

DPF-481 Revised 10-23-96/P/forms

DISTRIBUTION: Original WHITE copy for AA Officer, or authorized designee YELLOW for EEO/AA, PINK for Complaint

NEW JERSEY DEPARTMENT OF PERSONNEL**Shaping a quality workforce through competence, caring and commitment.**

Christine Todd Whitman, Governor

Linda M. Anselmi, Commissi

THE PARTIES

2. Plaintiff Phyllis Atkinson, an African American female, is a resident of the state of New Jersey residing at 317 East 30th Street, Paterson, New Jersey 07504.
3. Defendant North Jersey Developmental Center is an institution for mentally disabled located at 169 Minisink Road, Totowa, New Jersey 07511.

FACTUAL ALLEGATIONS

4. Plaintiff began working for the defendant in August 1980 as a Direct Care Staff.
5. During the 27 years of employment with North Jersey Developmental Center, plaintiff was promoted and received a satisfactory or above satisfactory score on her work performance reviews.
6. In the last 14 years of her employment with North Jersey Developmental Center, plaintiff worked as a Principal Clerk Transcriber position maintaining medical trips and policy and procedures, time sheets etc.
7. In the fall of 2004 plaintiff began reporting to a new acting supervisor Ms. Carole Wolke, a Caucasian women.
8. During that time the plaintiff began experiencing a hostile working environment, which was created by Ms. Wolke.
9. Ms. Wolke decreased the plaintiff's Performance Assessment Review Rating while increasing her counterparts who were not African American.
10. During that time the plaintiff reported to the Director of Nursing Ms. Roxanne Lotts and made an informal complaint of being discriminated by Ms. Carole Wolke.
11. In addition, throughout the time that plaintiff made her complaint against Ms. Wolke, she made plaintiff's life miserable by verbally threatening her I'll fix you; I'll get you one

- way or another” and plaintiff was treated differently than her counterparts who were not African American.
12. For example, in November of 2004 plaintiff requested vacation time off, which was denied by Ms. Carole Wolke while counterpart’s vacations were, approved who were not African American.
 13. In 2005, in light of the ongoing problems, plaintiff initiated a job transfer to another position, reporting to a different supervisor.
 14. After many unsuccessful attempts on plaintiff’s part to resolve hostile working environment, as well as plaintiff’s concerns of discrimination, plaintiff filed a formal complaint.
 15. Following plaintiff’s complaint, Ms. Carole Wolke brought a formal charge of dictionary action, which she believed to be unwarranted.
 16. In addition, following plaintiff’s complaint, plaintiff continued to be harassed by Ms. Carole Wolke.
 17. Based on the defendant’s failure to address the defendant’s concern of discrimination and retaliation, on or about 2006, plaintiff filed a formal complaint of discrimination and retaliation with defendant’s EEO office.
 18. Following, she filed with the EEOC
 19. Prior to plaintiff filing formal and informal complaints of discrimination, hostile work environment, retaliation and harassment plaintiff had started experiencing mental and physical health issues leading to a medical leave of absence.

COUNT ONE

(Retaliation in Violation of the New Jersey Law Against Discrimination)

20. Plaintiff restates and incorporates paragraphs 1 through 19 as if fully stated herein.

21. Defendant retaliated against plaintiff for filing a form complaint of discrimination with defendant's Equal Employment Office, by relinquishing plaintiff's job duties and giving plaintiff's duties to a white counterpart with an increase in pay.
22. Defendant's retaliation against plaintiff violates the provision of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.
23. In retaliating against plaintiff, defendant has caused plaintiff to suffer a loss pension reduction in wages and loss of medical benefits, plaintiff suffered severe and disabling emotional distress.

COUNT TWO

(Race Discrimination in Violation of the
New Jersey Law Against Discrimination)

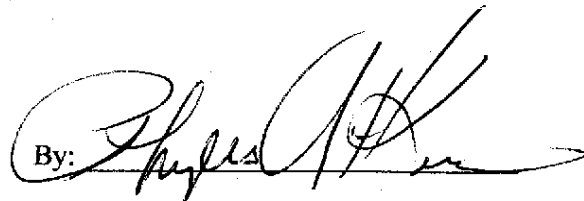
24. Plaintiff restates and incorporates paragraphs 1 through 23 as if fully stated herein.
25. In terminating plaintiff's job duties in retaliation defendant has discriminated against plaintiff on account of her race in violation of the New Jersey Law Against Discrimination.
26. By engaging in the above-referenced conduct, the defendant violated plaintiff's right to be free of discrimination in violation of the New Jersey Law Against Discrimination.
27. As a direct and proximate result of defendant's violation of the NJLAD, plaintiff has suffered a loss of wages and benefits and severe emotional distress damage.

RELIEF REQUESTED

Wherefore, plaintiff demands judgment against the defendant and request the following relief:

- a. Order that defendant make plaintiff whole for all losses she has suffered, still suffers, and will suffer in terms of benefits, insurance and pension coverage, and any other fringe benefits of their employment.
- b. Award plaintiff compensatory damages for the injuries, including, emotional distress, suffered as a result of defendant's retaliation against plaintiff; discrimination and retaliation against plaintiff in violation of the New Jersey Law Against Discrimination'
- c. Award plaintiff punitive damages on the grounds of upper management's actual participation in and/or willful indifference to defendant's discrimination against plaintiff;
- d. Award plaintiff fees and costs incurred by the need to bring this litigation; and
- e. Grant plaintiff such relief as the Court deems just and proper.

PHYLLIS ATKINSON, PRO SE

By: 

PHYLLIS ATKINSON, PRO SE

Dated: May 16, 2008

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues as permitted by law.

PHYLLIS ATKINSON, PRO SE
317 EAST 30TH STREET
PATERSON, NJ 07504

By: Phyllis Atkinson
Pro Se, Plaintiff
973-460-0382

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
VICINAGE OF NEWARK

PHYLLIS ATKINSON

HONORABLE PETER G. SHERIDAN
UNITED STATES DISTRICT JUDGE

v.

NORTH JERSEY DEVELOPMENTAL
CENTER AND CAROLE WOLKE,

Civil Action

06-5485 (PGS)

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

INTRODUCTORY STATEMENT

1. Plaintiff, Phyllis Atkinson, brings this civil rights action under the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq. (NJLAD) to remedy retaliation and discrimination against her on account of her race. Plaintiff alleges that her former employer, defendant, North Jersey Developmental Center, and Carole Wolke through its representatives and agents, subjected her to retaliation after she filed both informal and formal complaints of discrimination with the Director of Nursing Services for North Jersey Developmental Center Roxanne Lotts. Plaintiff further alleges that her former employer, North Jersey Developmental Center and Carole Wolke unlawfully discriminated against her on account of her race in violation of N.J.S.A. 10:5-1 et seq.

PHYLLIS ATKINSON – PRO SE

By: A handwritten signature in black ink, appearing to read "Phyllis Atkinson", written over a horizontal line.

PHYLLIS ATKINSON

Dated: May 16, 2008